

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals, District of Columbia

JANUARY TERM, 1902.

No. 1155.

123

No. 11, SPECIAL CALENDAR.

THE WASHINGTON ELECTRIC VEHICLE TRANSPORTA-
TION COMPANY, PLAINTIFF IN ERROR,

vs.

THE DISTRICT OF COLUMBIA.

WRIT OF ERROR TO THE POLICE COURT OF THE DISTRICT OF
COLUMBIA.

FILED DECEMBER 19, 1901.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

THE WASHINGTON ELECTRIC VEHICLE TRANSPORTATION Company, Plaintiff in Error, vs. THE DISTRICT OF COLUMBIA.	}	No. 1155.
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a In the Police Court of the District of Columbia, December Term, 1901.

DISTRICT OF COLUMBIA vs. THE WASHINGTON ELECTRIC VEHICLE Company (a Corporation).	}	No. 214,903. Information for Unlicensed Vehicle.
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Be it remembered that in the police court of the District of Columbia, at the city of Washington, in the said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 In the Police Court of the District of Columbia, December Term, 1901.

DISTRICT OF COLUMBIA vs. THE WASHINGTON ELECTRIC VEHICLE Company.	}	No. 214,903. Information for Unlicensed Vehicle.
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Defendant arraigned December 4th, 1901.

Plea: Not guilty.

Judgment: Guilty.

Sentence: To pay a fine of five dollars, in addition to license tax of ten dollars.

Notice given by defendant of its intention to apply to a justice of the Court of Appeals for a writ of error. Bill of exceptions filed, settled, and signed.

DECEMBER 19th, 1901.

I hereby certify, under the seal of this court, that the foregoing is a true copy of the record of the proceedings had in the police court in the above-entitled case.

JOSEPH HARPER,
Dep. Clerk Police Court, Dist. of Columbia.

2 In the Police Court of the District of Columbia, June Term,
1901.

THE DISTRICT OF COLUMBIA, ss :

Andrew B. Duvall, Esq., attorney for the District of Columbia, by James L. Pugh, Jr., Esq., special assistant attorney for the District of Columbia, who for the said District prosecutes in this behalf in his proper person, comes here into court and causes the court to be informed and complains that Washington Electric Vehicle Transportation Company (a corporation), late of the District of Columbia aforesaid, on the first day of May and on divers other days and times between the first day of May and the 15th day of June, in the year A. D. nineteen hundred, in the District of Columbia aforesaid and in the city of Washington, was then and there the proprietor of a certain vehicle for the conveyance of passengers for hire, and, as such, did fail and neglect to secure a license for said vehicle and pay the license tax therefor, contrary to and in violation of an act of the late Legislative Assembly of the District of Columbia approved August 23, 1871, and constituting a law of the District of Columbia.

ANDREW B. DUVALL, Esq.,
Attorney for the District of Columbia,
By J. L. PUGH, JR.,
Special Assistant Attorney for the District of Columbia.

Personally appeared A. R. Lamb this 15th day of June, A. D. 1901, and made oath before me that the facts set forth in the
3 foregoing information are true, and those stated upon information received he believes to be true.

W. H. RUFF,
*Deputy Clerk of the Police Court for the
District of Columbia.*

Whereupon the defendant pleaded "not guilty." The trial was had by the court before the Honorable Ivory G. Kimball, one of the judges of said court, presiding.

In the Police Court of —.

THE DISTRICT OF COLUMBIA
vs.
WASHINGTON ELECTRIC VEHICLE TRANSPORTATION COM- } No. —.
pany.

Bill of Exceptions.

At the trial of this case the District of Columbia proved the following facts, which the defendant, in open court, by its counsel, admitted to be true: That the defendant is a corporation duly incorporated under the laws of the State of New Jersey, and having an office and doing business in the District of Columbia.

That said defendant is the owner and proprietor of certain elec-

tric vehicles or automobiles, which are rented or hired to persons in the District of Columbia who desire to make use of the same in traveling about said city; that said defendant is the owner
4 of certain electric omnibuses or coaches, which are hired to three of the hotels in said city of Washington, District of Columbia, for the convenience of the guests thereof, and to be used in transporting said guests from the depot to said hotels and *vice versa*, for which a charge is made for said service.

That on the first day of May, 1900, and on divers other dates between said first day of May and the 15th day of June, 1900, said defendant was the owner of an electric omnibus or coach, which was stationed at the Raleigh hotel, in said city and District, for the purpose of serving the guests of said hotel for hire, as hereinbefore stated.

That said defendant has failed and neglected to apply for and take out a license authorizing it to assign said omnibus or coach to the said Hotel Raleigh for the purposes of carrying the guests of said hotel to the depots and of receiving the guests of said hotel at the depots and conveying them to said hotel, and said defendant has failed to apply for a license or pay the license tax for other electric vehicles used in transporting for hire individuals from place to place about said city and kept in the barn of said defendant for hire; and thereupon the prosecution closed its case.

Thereupon the defendant proved the following facts, which the District of Columbia, by its counsel, in open court, admitted to be true: That said defendant, incorporated as aforesaid, is the owner of electric vehicles or automobiles, which are run entirely by electricity; that said defendant has its place of business at Fourteenth
street and Ohio avenue northwest, Washington, D. C., and
5 hires its vehicles to persons who engage the same and pay the reasonable charge demanded by defendant; that the defendant is also the owner of an electric omnibus or coach, which, under an arrangement with the manager of the Raleigh hotel, it places at the services of the guests of said hotel for the purpose of transporting them to and from the depots; that a reasonable fee is charged said guests for such transportation.

Defendant has at all times tendered itself willing and ready to submit to all reasonable regulations in the conduct of its business, provided said business is properly classified and regulated by law, but it denies the right of the District of Columbia to assess a license fee against it under the terms of the act of the late Legislative Assembly of the District of Columbia approved August 23, 1871, for the reason that said act does not apply to vehicles of the class used by the defendant or to the kind of business carried on by it, and defendant says there is no law or regulation applicable to it or to the vehicles used by it in its said business.

This was all the evidence offered.

Thereupon counsel for the defendant requested the court to rule as a matter of law that said act of the Legislative Assembly of the District of Columbia approved August 23, 1871, entitled "An act

imposing a license on trades, business, and professions practiced or carried on in the District of Columbia," and particularly the 26th section thereof, was inapplicable to the business carried on by said defendant in the supplying vehicles to persons at a reasonable fee and for supplying the said electric omnibus or coach or other carriage to the Hotel Raleigh for the use set forth in the evidence:

First. Because said vehicle for persons and omnibus or coach, for use in transporting passengers for said hotel, is run by electricity and does not come within the classification of vehicles set forth in the act of the assembly.

Second. Because the rates of taxation for the licenses, as fixed by said act of the assembly, are based upon the character of vehicles as determined by the number of horses required to draw them.

Third. Because the rates fixed by the act of the assembly are based upon the wear and tear on the streets and other inconveniences resulting from the use of vehicles drawn by horses thereon, and are therefore inapplicable to electric vehicles, and the rate would be unjust and oppressive as applied to said electric vehicles.

Fourth. Because at the time of the passage of said act of the Legislative Assembly the conveyance of passengers by means of electric vehicles was unknown and unheard of and could not have been in the contemplation of the framers of said law.

Fifth. That by its very terms and provisions said act is inapplicable.

But the court refused to rule as requested by the defendant, and held that by the act of the Legislative Assembly of the District of Columbia approved August 23, 1871, entitled "An act imposing a license on trades, business, and professions practiced or carried on in the District of Columbia," was and is applicable to the business carried on by this defendant as in these proceedings set forth; to which refusal counsel for the defendant then and there duly excepted; and thereupon counsel for the defendant moved the court, upon the case made, to discharge the defendant; but the court refused so to rule; to which refusal counsel for the defendant then and there duly excepted, and the said exceptions and each of them were duly noted upon the minutes of the court before the court announced its judgment in the case, and notice was then given of the intention of the defendant to apply for a writ of error.

In witness whereof, at the request of the defendant's counsel, the presiding justice signs this bill of exceptions this 4th day of December, A. D. 1901.

I. G. KIMBALL,
Presiding Justice.

8 UNITED STATES OF AMERICA, } ss:
District of Columbia,

In the Police Court of the District of Columbia.

I, Joseph Y. Potts, clerk of the police court of the District of Columbia, do hereby certify that the foregoing pages, numbered from

1 to 6, inclusive, to be true copies of originals in cause No. 214,903, wherein The District of Columbia is plaintiff and The Washington Electric Vehicle Company defendant, as the same remain upon the files and records of said court.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, — the city of Washington, in said District, this 19th day December, A. D. 1901.

JOSEPH Y. POTTS,
Clerk Police Court, Dist. of Columbia.

9 UNITED STATES OF AMERICA, ss :

The President of the United States to the Honorable I. G. Kimball, judge of the police court of the District of Columbia, Greeting :

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said police court, before you, between The District of Columbia, plaintiff, and The Washington Electric Vehicle Transportation Company, defendant, a manifest error hath happened, to the great damage of the said defendant, as by its complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Richard H. Alvey,
Seal Court of Appeals, Chief Justice of the said Court of Appeals,
District of Columbia. the 10th day of December, in the year of
our Lord one thousand nine hundred and
one.

ROBERT WILLETT,
Clerk of the Court of Appeals of the District of Columbia.

Allowed by—

M. F. MORRIS,

*Associate Justice of the Court of Appeals
of the District of Columbia.*

[Endorsed :] 214,903. Filed Dec. 10, 1901. Joseph Y. Potts, clerk police court, D. C.

Endorsed on cover: District of Columbia police court. No. 1155. The Washington Electric Vehicle Transportation Company, plaintiff in error, vs. The District of Columbia. Court of Appeals, District of Columbia. Filed Dec. 19, 1901. Robert Willett, clerk.